

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Jordan Mann,	)	CIVIL ACTION NO.
	)	
Plaintiff,	)	07-CV-5691 (NRB/DF)
	)	
v.	)	
	)	
Plus One Fitness; Trump World	)	
Towers; "Robert" Doe;	)	
Jamie MacDonald;	)	
Does 1 – 10 inclusive,	)	
	)	
Defendant(s).	)	
	)	

**ANSWER TO CROSS-CLAIMS AGAINST DEFENDANT NAMED HEREIN AS  
PLUS ONE FITNESS WITH AFFIRMATIVE DEFENSES**

DEFENDANT Plus One Holdings, Inc. (Plus One), named herein as Plus One Fitness, through its attorneys ~~MARTIN~~NORCROSS LLC, hereby responds to the allegations contained in the Cross-Claims as follows:

**AS TO THE FIRST CROSS-CLAIM**

1. Denies that any response to the paragraph numbered 28 of the First Cross-Claim is required to the extent that Cross-Claimant merely incorporates its answers to the allegations asserted in Plaintiff's Second Amended Complaint. To the extent Cross-Claimant asserts allegations in said Answer, Plus One: (a) denies Cross-Claimant's allegations in paragraphs 1, 3, and 7 of its Answer, to wit that it had no involvement in or with Plaintiff's employment with Plus One, the termination of that employment, or Plus One's personnel decisions in connection with Plaintiff; (b) denies that Cross-Claimant

took no ac(tion) in connection with Plaintiff's termination as implied in paragraph 18 of its Answer; (c) denies the allegations contained in paragraphs 24 and 26 of Cross-Claimant's Answer; and (d) denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 21 through 23 of Cross-Claimant's Answer.

2. Admits the allegations contained in the paragraph numbered 29 of the First Cross-Claim.

3. Denies Cross-Claimant's characterization of the Management Agreement contained in the paragraph numbered 30 of the First Cross-Claim, and respectfully refers the Court and the parties to that document, the provisions of which speak for themselves.

4. Denies the allegations contained in the paragraph numbered 31 in the Cross-Complaint.

#### **AS TO THE SECOND CROSS-CLAIM**

5. Repeats and realleges its responses contained in paragraphs 1 through 4 above as though fully set forth in response to the paragraph numbered 32 of the Second Cross-Claim.

6. Admits the allegations contained in the paragraph numbered 33 of the Second Cross-Claim.

7. Denies the allegations contained in the paragraph numbered 34 of the Second Cross-Claim.

8. Admits the allegations contained in the paragraph numbered 35 of the Second Cross-Claim.

9. Admits the allegations contained in the paragraph numbered 36 of the Second Cross-Claim.

10. Denies the allegations contained in the paragraph numbered 37 of the Second Cross-Claim.

11. Denies the allegations contained in the paragraph numbered 38 of the Second Cross-Claim.

12. Denies the allegations contained in the paragraph numbered 39 of the Second Cross-Claim.

**AS AND FOR A FIRST DEFENSE**

13. The Cross-Claims are deficient as a matter of law for failure to comply with the pleading requirements of this Court.

**AS AND FOR A SECOND DEFENSE**

14. The Cross-Claims are barred, in whole or in part, to the extent that Cross-Claimant is deemed a joint-employer of plaintiff as a matter of law.

**AS AND FOR A THIRD DEFENSE**

15. Cross-Claimant's claims are barred or reduced to the extent that any damages it sustained were proximately caused by its own actions or omissions, by the acts or omissions of others for whom Plus One is not liable, or by independent intervening causes that Plus One did not control or have the right to control.

WHEREFORE, Plus One respectfully requests that the Court: (1) dismiss the Cross-Claims in their entirety; (2) deny each and every prayer for relief contained in the Cross-Claims; (3) order Cross-Claimant to pay to Plus One the costs, including attorneys'

fees, it incurs incur in defending the meritless, vexatious, and frivolous Cross-Claims;  
and (4) award to Plus One such other and further relief as the Court may deem just and  
appropriate.

Yours, etc.

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By: /s/ Deborah Martin Norcross  
Deborah Martin Norcross (DN0289)

September 24, 2007

**CERTIFICATE OF SERVICE**

I certify that on the 24th day of September, 2007, I electronically filed the foregoing **Answer to Cross-Claims with Affirmative Defenses** with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record:

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By: /s/ Deborah Martin Norcross  
Deborah Martin Norcross (DN0289)

September 24, 2007